

**PHARMACY EXAMINING BOARD  
DECEMBER 7, 2005  
MEETING MINUTES**

**PRESENT:** Cynthia Benning, R. Ph; Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Georgina Forbes, Fred Moskol, R.Ph; Charlotte Rasmussen; Rich Verschay, R.Ph.

**STAFF:** Tom Ryan, Bureau Director; William Black, Legal Counsel; PJ Monson, Bureau Assistant; Eric Callisto, Division of Enforcement (DOE), for portions of the meeting

**GUESTS:** Gregory Weber and Jeanne M. Severson New Board Appointments; Darrin Wirkes, Target Stores; Kerry Moskol, Quarles & Brady; Tom Engels, Pharmacy Society of Wisconsin; Sara Chellefold, Dean Pharmacy/UW Madison Pharmacy Student; Dr. Nina M. Antoniotti, Marshfield Clinic Telehealth; Stuart Guenther, RPH, Marshfield Clinic, Pharmacy; Brian Mihelick, Walgreen's; Ryan Mickelson, School of Pharmacy DPH-3; Michelle Violi, Women's International Pharmacy; Katie DeChamps, UW School of Pharmacy, DPH-4; Jeremy Levin, Wisconsin Medical Society.

**CALL TO ORDER**

Chair Michael Bettiga called the meeting to order at 9:15 a.m. A quorum of 7 was confirmed.

The Board welcomed the new Board appointments to the meeting.

**APPROVAL OF AGENDA**

**Additions:**

- After "B" – Wisconsin Ethics Board Guidelines on solicitation by Board members.
- Between Item "B&C" – NABP/AACP District IV Annual meeting policies, procedures and responsibilities
- Item "C" – Maximizing Patient Safety in the Medication Use Process – Practice Guidelines and Best Demonstrated Practices
- Item "D" – 2005 Bill – LRB-4149/1
- Item "D" – Clearinghouse Rule 05-078, final rule making order
- Item "D" – Senate Public Hearing notice regarding Senate Bill 405
- Item "D" – Minnesota Guidelines for Dispensing with Remote Distribution Via Tele-pharmacy
- Item "E" – Federal Register/Vol. 70, No. 214 page 67576-67595 – e-prescribing and the prescription drug program
- Item "I" – "Cold Remedy Control Has Pharmacies on Hot Seat" article from the Milwaukee Journal Sentinel
- Between Item "T&U" – DOE Pending Case Report
- Between Item "T&U" – Requesting reinstatement of stay of suspension – Lance Lundstad, R.Ph.
- Between Item "T&U" – Requesting initial stay of suspension – Heidi Timmerman, R.Ph.

- Between Item “T&U” – Requesting three month stay and modifications – Gerald Jennings R.Ph.
- Between Item “T&U” – Requesting three month stay and modifications – Will Karwoski, R. Ph.
- Between Item “T&U” – Requesting three month stay and modifications – Luigi Micili, R. Ph.
- Between Item “T&U” – Requesting three month stay and modifications – Duane Oestreich, R. Ph.
- Between Item “T&U” – Requesting three month stay and modifications – Gregory Teche, R. Ph.
- Between Item “T&U” – Requesting three month stay and modifications – Charlene Willis

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to approve the agenda with additions. Motion carried unanimously.

### **APPROVAL OF MINUTES**

#### **Amendments to the Minutes:**

Page 9 – under Assembly Bill 258 – add (legality ‘under federal law’ the branding)

Page 10 – under Columbia-St. Mary’s – as long as ‘these drugs are used’ for patients

**MOTION:** Mr. Bohlman moved, seconded by Ms. Forbes, to approve the October 19, 2005 minutes as amended. Motion carried unanimously.

### **PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

#### **KENT W. HEGER, RPH**

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Kent W. Heger, R.Ph.

#### **GOLDEN SANDS RESPIRATORY CARE SERVICES, INC**

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Golden Sands Respiratory Care Services, Inc.

### **ADMINISTRATIVE REPORT**

#### **Hotline number reminder**

Board members were encouraged to use the Board member hotline number and were reminded this is for members only.

## **DOE Caseload**

Eric Callisto, DOE Administrator, informed the Board that a DOE attorney will be leaving the Health team and another will be retiring in early spring. Mr. Bettiga addressed the fact that the Board is going through a transition period with Board membership and that current members may possibly vacate their seats in the near future. He suggested priority be given to those cases requiring current Board member expertise prior to their resignation from the Board.

## **2006 AACP – NABP Region IV Meeting – University of Wisconsin (UW) – Madison**

Mr. Bettiga addressed the Board regarding a request for the Wisconsin Pharmacy Board and the UW School of Pharmacy to host the 2006 NABP Region IV meeting. The Board reviewed the Ethics Board Guidelines on Solicitation by Board Members. Tom Ryan, Fred Moskol and Jeanne Severson will meet with representatives of the UW School of Pharmacy prior to the February meeting to review possible avenues for Board participation.

## **Examination question review and Marshfield Clinic Speaker request**

Tom Ryan explained that the NABP has agreed to assist with a Multi-state Pharmacy Jurisprudence Examination (MPJE) examination review in Madison. The Board chose January 11, 10 or 24<sup>th</sup> as the preferred availability days for the MPJE review. Cindy Benning will plan on speaking at the Marshfield Clinic event in January.

## **Review of power point presentation at PSW technician seminar – Cindy Benning**

Noted.

## **Travel requests received in the Bureau after mailing of agenda**

The Pharmacy Society of Wisconsin's (PSW) legislative day conference will be held Feb 15, 2006 at the Inn on the Park in Madison.

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, in favor of participating in the spring PSW conference. Motion carried unanimously.

## **QUALITY ASSURANCE DISCUSSION**

### **Remedial Education Program – Eric Callisto, DOE**

Eric Callisto presented the Remedial Education Program and informed the Board that the Medical Examining Board, Podiatrists Affiliated Credentialing Board, and the Veterinary Examining Board approved this program. The Board suggested two changes to the draft: 1) Include the option to use this program more than once if necessary on a single licensee; 2) Recommendations of the screening committee identifying licensees who will be offered an opportunity to participate in remedial education programs to resolve an informal complaint need not be approved by the Pharmacy Examining Board.

Eric Callisto, DOE, returned to the meeting with the updated Remedial Education Program draft proposal after making the changes and submitted it for review.

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to approve the Remedial Education Program as amended at today's meeting. Motion carried unanimously.

**Error prevention report**

Noted.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES,  
ADMINISTRATIVE RULES AND LEGISLATION**

**Controlled Substances Theft and Loss Reporting Rule and Foreign Pharmacy Graduate Internship Rule**

Tom Ryan noted that the drafting continues on the controlled substances theft and loss reporting rule and foreign pharmacy graduate internship rule. The Board requested review of the drafts at the Board's next meeting.

**Prescription records and transfers rule**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Forbes, to adopt the prescription records and transfers rule, CR 05-078. Motion carried unanimously.

**Legislative Liaison Report – Charlotte Rasmussen**

**2005 Assembly Bill (AB) 258**

Ms. Rasmussen reported that AB 258 (prescription labeling) is in the Senate committee.

**2005 Assembly Bill 722**

Assembly Bill 722 (out of state licensure) is scheduled for hearing on December 20 before the Senate Health Committee.

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, in favor of the Chair appointing a Board member to testify if necessary in support of AB 722. Motion carried unanimously.

It was suggested that Cindy Benning provide the testimony.

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to incorporate the remote dispensing language into AB 722. Motion carried unanimously.

### **2005 Assembly Bill 683**

The Assembly Health Committee is still reviewing AB 683.

### **LRB-3021/P1**

Ms. Rasmussen stated that there has been no change regarding the status of LRB-3021 (Wholesale Drug Distribution) since the last meeting.

### **2005 Assembly Bill 405**

Assembly Bill 405 (Emergency Relocation) is scheduled for public hearing on Wednesday, December 14, 2005.

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to allow the Chair of the Board to appoint a Board member to attend the hearing to represent the Pharmacy Board as it pertains to AB 405. Motion carried unanimously.

It was suggested that Fred Moskol provide the testimony.

### **Remote dispensing bill language**

Mr. Black reviewed clarifications needed in the remote dispensing bill language.

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to use the original language used in the Board's original draft with the deletion of Wis. Stat. § 450.065(2) and add 'in Wisconsin' after Pharmacy. Motion carried unanimously.

### **MEDICARE PROGRAM: E-PRESCRIBING AND THE PRESCRIPTION DRUG PROGRAM – FINAL RULE**

Mr. Black reviewed information related to the final rule. No Board action was taken.

### **Wisconsin Pharmacy Forum Meeting**

Mr. Bettiga informed the Board that the meeting originally planned for December was cancelled and the next meeting will be announced at a later date.

### **VARIANCE REQUEST**

#### **MARSHFIELD CLINIC GARY S. PLANK, R. Ph. – WAUSAU**

Kerry L. Moskol, JD, Quarles & Brady, LLP, Dr. Nina M. Antoniotti, Marshfield Clinic TeleHealth, and Stuart Guenther, R.Ph., Marshfield Clinic Pharmacy, appeared before the Board to present a variance request for pharmacists to perform the final check via remote telepharmacy for their Wausau location and to answer questions.

The Board discussed the possibility that the Clinic Pharmacy of Wausau would need to be licensed as its own entity, thus requiring a pharmacist's physical presence within the location. Remote dispensing was discussed generally. The Board decided that Marshfield Clinic may continue to operate under the present physician dispensing model.

### **LICENSING LIAISON REPORT**

Noted.

### **DEA DRUG THEFT AND LOSS REPORTS**

#### **Report review**

Noted.

#### **DRL discipline tracking – Jeanette Lytle**

The Board took no action on this agenda topic.

#### **Consultation work group – status – Cynthia Benning**

Mr. Ryan stated that there will be a meeting between the committee and the University of Wisconsin (UW) next week regarding the grant proposal.

### **PAIN MANAGEMENT STATEMENT**

John Bohlman presented his draft of the Pain Management Statement.

**MOTION:** Ms. Benning moved, seconded by Ms. Rasmussen, to approve the statement and bring it before the Medical Examining Board for their review. Motion carried unanimously.

The Board asked that the Medical Board be invited to join in the Pharmacy Board's endorsement of the statement.

### **INFORMATIONAL ITEMS**

Noted.

#### **Motion to Invite New Appointment(s) Into Closed Session**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Rasmussen, to invite Jeanne Severson and Greg Weber into closed session. Motion carried unanimously.

## **CLOSED SESSION**

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1)(a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data ( Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Cynthia Benning-yes; Michael Bettiga-yes; John Bohlman-yes; Georgina Forbes-yes; Fred Moskol-yes; Charlotte Rasmussen-yes; Rich Verschay - yes. Motion carried unanimously.

The Board convened into closed session at 1:30 p.m.

## **RECONVENE TO OPEN SESSION TO VOTE ON ITEMS DELIBERATED ON IN CLOSED SESSION**

**MOTION:** Mr. Moskol moved, seconded by Mr. Verschay, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 3:43 p.m.

## **DELIBERATION OF STIPULATIONS, FINAL DECISIONS AND ORDERS**

### **KENT W. HEGER, R.PH.**

**MOTION:** Ms. Benning moved, seconded by Ms. Rasmussen, to approve the proposed stipulation, findings of fact, conclusions of law and order in the matter of the disciplinary proceedings against Kent W. Heger, R.Ph. Motion carried unanimously.

### **GOLDEN SANDS RESPIRATORY CARE SERVICES, INC.**

**MOTION:** Ms. Benning moved, seconded by Ms. Rasmussen, to approve the proposed stipulation, findings of fact, conclusions of law and order in the matter of the disciplinary proceedings against Golden Sands Respiratory Care Services, Inc. Motion carried unanimously.

## **ADMINISTRATIVE WARNINGS**

### **03 PHM 020**

**MOTION:** Ms. Rasmussen moved, seconded by Ms. Benning, to issue the administrative warning in the matter of 03 PHM 020. Motion carried unanimously.

**03 PHM 063**

**MOTION:** Ms. Benning moved, seconded by Ms. Forbes, to issue the administrative warning in the matter of 03 PHM 063. Motion carried unanimously.

**05 PHM 026**

**MOTION:** Ms. Benning moved, seconded by Mr. Verschay, to issue the administrative warning in the matter of 05 PHM 026. Motion carried unanimously.

**CASE CLOSINGS**

**03 PHM 063**

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to close case 03 PHM 063 for no violation against Walgreen's #03010 and Jon P. Sambs, R.Ph. Motion carried unanimously.

**03 PHM 026**

**MOTION:** Ms. Benning moved, seconded by Mr. Verschay, to close case 03 PHM 026 for no violation against Walgreen's #03010 and Raymond Haus, Managing R.Ph. Motion carried unanimously.

**03 PHM 075**

**MOTION:** Mr. Moskol moved, seconded by Ms. Rasmussen, to close case 03 PHM 075 for prosecutorial discretion P1. Motion carried unanimously. Mr. Bettiga abstained.

**REQUEST RETAKE OF CONSULTATION EXAM FOR A THIRD TIME  
MADHURI VEMURI**

**MOTION:** Ms. Forbes moved, seconded by Ms. Benning, to allow Madhuri Vemuri to take the consultation exam for a third time. Motion carried unanimously.

**REQUEST RETAKE OF MPJE FOR A THIRD TIME  
DIPAL PATEL**

**MOTION:** Ms. Benning moved, seconded by Mr. Moskol, to allow Dipal Patel to take the MPJE for a third time. Motion carried unanimously.



**RE-REGISTRATION APPLICATION REVIEW  
BETH STOKKA**

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to require the MPJE and the patient consultation examination for Beth Stokka. Motion carried unanimously.

Charlotte Rasmussen left closed session before DOE Monitoring and did not return.

**DOE MONITORING**

**LANCE LUNDSTAD, R.PH.**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to reinstate a three month stay of suspension for Lance Lundstad, R.Ph. and requests his appearance at the February 8, 2006 meeting with supporting documentation of his plan of care. Motion carried unanimously.

**HEIDI TIMMERMAN, R.PH.**

**MOTION:** Ms. Benning moved, seconded by Mr. Moskol, to grant a three month stay of suspension for Heidi Timmerman, R.Ph. Motion carried unanimously.

**GERALD JENNINGS, R.PH.**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to grant three month stay, reduce UA's to 48/year and allow 16 Pharmacist In Charge hour, allowing Gerald Jennings, R.Ph. to open and close consecutively. Motion carried unanimously.

**WILLIAM KARWOSKI, R.PH.**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to grant a three month stay and deny modifications for William Karwoski, R.Ph. Motion carried unanimously.

**LUIGI MICILI, R.PH.**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to grant a three month stay, deny modifications and require future requests be submitted in the format as set forth in the stipulation for Luigi Micili, R.Ph. Motion carried unanimously.

**DUANE OESTREICH, R.PH.**

**MOTION:** Ms. Benning moved, seconded by Mr. Bohlman, to grant three month stay and deny modifications for Duane Oestreich, R.Ph. Motion carried unanimously. Mr. Bettiga abstained.

**GREGORY TECHE, R.PH.**

**MOTION:** Ms. Benning moved, seconded by Ms. Forbes, to grant three month stay and deny modifications for Gregory Teche, R.Ph. Motion carried unanimously.

**CHARLENE WILLIS, R.PH.**

**MOTION:** Mr. Bohlman moved, seconded by Ms. Benning, to grant three month stay and deny modifications for Charlene Willis, R.Ph. Motion carried unanimously.

**CONSULTING WITH LEGAL COUNSEL, INCLUDING:**

**Brief in the matter of Neil Noesen v. State of Wisconsin Department of Regulation and Licensing and Pharmacy Examining Board**

Mr. Black addressed the Board regarding the current information received from Neil Noesen. No action was taken.

**Review of candidate challenge to scoring of patient consultation examination**

**MOTION:** Ms. Benning moved, seconded by Ms. Forbes, in favor of no change to the score after Board designee review of candidate 10-15. Motion carried unanimously.

Darwin Tichenor addressed the Board regarding examination review questions.

**VALIDATION OF EXAMINATION SCORES**

Mr. Tichenor reported that six examinations were given on December 7. Three passed, three failed.

**MOTION:** Mr. Bohlman moved, seconded by Mr. Verschay, to validate the examination scores of December 7, 2005. Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Ms. Benning moved, seconded by Mr. Moskol, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:50 p.m.